IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO. 19570 of 2004

Between:

1. Syed Mohd. Sadiq Hussaini @ Ghouse Peer s/o Syed Abdul Rehaman Bugdabi, age 85 years, Occ: Business.
2. Syed Abdul Rehman s/o Syed Sadiq Hussain @ Ghouse Peer, aged 58 years. Occ: business
3. Syed Mohd. Khalid s/o Syed Sadiq Hussain @ Ghouse Peer, aged 52 years. Occ: Business.
4. Syed Mohd. Kamal s/o Syed Sadiq Hussain @ Ghouse Peer, age 48 years, Occ: Business.
5. Smt. Aisha Fatima w/o Mir Fawad Mustafa (d/o Syed Sadiq Hussain @ Ghouse Peer) age 60 years, Occ: Household.
6. Smt. Kaneez Fatima w/o Aliuddin Ahamed ((d/o Syed Sadiq Hussain @ Ghouse Peer) age 50 years, Occ: Household.
7. Smt. Aziz Fatima w/o Syed Sultan Mohiuddin ((d/o Syed Sadiq Hussain @ Ghouse Peer) age 48 years, Occ: Household.
8. Smt. Anees Fatima w/o Khaja Ahamed Najaruddin ((d/o Syed Sadiq Hussain @ Ghouse Peer) age 40 years, Occ: Household.

(All are residents of 17-1-256, Bagh Mamodkaram, Santoshnagar Colony, Hyderabad rep. by Agreement Holder: Syed Ahmed Shareef Quadri s/o late Khasim Shareef r/o H.No.2-3-789, Golnaka, Amberpet, Hyderabad.)

..... PETITIONERS

AND

Special Deputy Collector, Land Acquisition (General)

Hyderabad District.

…..RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in not issuing Notification U/S.4(1) of the Land Acquisition Act and not awarding compensation for an extent of land admeasuring 6 gts. and 111 sq. yards in sy.No.305/1/A of Kandikal Village, Hyderabad District as illegal, arbitrary, unreasonable, violative of Articles 14 and 300-A of the Constitution of India besides being violative of principles of natural justice and consequently direct the respondent to issue Section 4(1) Notification under Land Acquisition Act and award for compensation.

Counsel for the Petitioner: MR.A.RAVINDER REDDY, Advocate.

Counsel for the Respondent: Govt. Pleader for LAND ACQUISITION

The Court made the following:

Oral Order:

By means of filing this writ petition under Article 226 of the Constitution petitioner

seeks a Mandamus to declare the action of the respondent in not issuing notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') as arbitrary and illegal and award compensation to an extent of land Ac.0.6 gts. and 111 square yards in Sy.No.305/1/A of Kandikal Village.

It is not in dispute that the said survey number is notified under Section 4(1) of the Act to an extent of Ac.11.06 gts. and 111 square yards and award was also passed by the Special Deputy Collector in Proceedings No.E/21P83 dated 16-09-1987 wherein the market value was fixed as per S.D. records in Sy.No.305/A-1. Aggrieved by the same petitioners sought a reference under Section 18 of the Act and further carried the matter in appeal in CCCA.No.110 of 2001.

When the Land Acquisition Officer failed to award compensation for a lesser extent, it is always open for the claimants to agitate the same before the Civil Court where the matter is referred under Section 18 of the Act and it is for the reference Court to pass appropriate orders. In the appeal filed by the petitioners this Court observed that neither the LAO nor the Civil Court passed any award for the existing well in the land in question and directed the LAO to award for the well that was existing on the land within a period of three months from the date of receipt of the order. It was contended by the counsel for the LAO that the compensation was paid for the land occupied by the well, whereas the counsel for the claimants contended that no compensation was paid for the well. As there is a dispute with regard to payment of compensation for the land occupied by the well both the counsel are given liberty to agitate the same before the LAO. If the said order is not implemented it cannot be said that the petitioners are remedy less, they can move the Civil Court. In view of the same, writ petition is speculative in nature. Be that as it may, petitioners have not made any endeavor to choose that necessary evidence be let in before the reference Court with regard to entitlement of compensation for the well and the land covered by it. In the absence of the same, no Mandamus as such can be issued and petitioners have to workout their remedies before the appropriate forum.

The writ petition is accordingly dismissed. No costs.

_____ A.GOPAL REDDY, J.

26-10-2004

Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Special Deputy Collector, Land Acquisition (General)

Hyderabad District.

2.Two CCs to the Govt. Pleader for Land Acquisition, High Court Buildings

Hyderabad (OUT)

3.Two CD copies.